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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON  
(HONORABLE THOMAS O. RICE)

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	2:19-CR-170-TOR-2
	)	
vs.	)	MOTION TO CONTINUE
	)	PRETRIAL CONFERENCE
NORMAN CARL CLARY,	)	& TRIAL & TO EXPEDITE
	)	HEARING ON MOTION
Defendant.	)	
	)	<b>Notice of Hearing on Motion</b>
	)	February 25, 2020 at 6:30 pm
	)	

NORMAN CARL CLARY, through counsel, Stephen R. Hormel for Hormel Law Office, L.L.C., moves the Court to continue the pretrial and trial and to set a new pretrial motions deadline.

The Speedy Trial Act (Act) requires that a trial commence within 70 days after the filing of an indictment, or within 70 days after a defendant's first appearance on an indictment, whichever time is later. 18 U.S.C. § 3161(c)(1). The Act permits the Court to continue a criminal proceeding beyond the 70 day limit on a finding "that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(7)(A).

1           The Act then sets out some of the factors that the Court must consider to  
2 determine if the reasons for granting a delay beyond the 70 day limit outweighs the  
3 public and defendants interest in a speedy trial. The Act permits this Court to  
4 exclude the speedy trial calculations in cases that are not so complex, but diligent  
5 counsel needs sufficient time to prepare an effective defense. 18 U.S.C. §  
6 3161(h)(7)(B)(iv). Counsel needs additional and sufficient time to prepare this case  
7 for the reasons set forth below.

8           Counsel substituted for counsel David Partovi and entered an appearance on  
9 January 26, 2020. Counsel received discovery on February 4 and on February 14,  
10 2020. The pretrial motions deadline was February 19, 2020. Counsel has not had  
11 sufficient time to review the discovery in order to determine what if any motions  
12 should be filed. Counsel has had sufficient time for a preliminary review of most of  
13 the discovery in order to give Mr. Clary a rough overview of his case. Counsel has  
14 also had an investigator meet with Mr. Clary this week to do the same. However,  
15 counsel has determined that there may be some legal issues that need development  
16 and research, and possible further investigation. A more thorough review of the  
17 discovery this counsel and the investigator is needed before any decisions relating  
18 to motions or discussions with Mr. Clary about his risks, options and potential  
19 exposure will be meaningful.

20           Counsel has spoken to AUSA Caitlin Baunsgard. She indicated that she has  
21 not objection to a continuance. AUSA Baunsgard asked that a trial date be  
22 established in mid-May or after. This counsel is available after the week of May 11,  
23 2020. As of now, counsel and Ms. Baunsgard have another trial set for May 11,  
24

1 2020 in a case before Judge Nielsen. A pretrial conference in that case is set for  
2 April 16, 2020. Counsel also has a case set before Judge Shea in Richland on May  
3 27, 2020. This Court set a trial date of June 15, 2020 in *United States v. Johnston*,  
4 *et al.*, No. 2:19-CR-215-TOR.

5 This counsel has a trial readiness date of April 20 and a trial date of April 22,  
6 2020 in a Superior Court case in Grant County, Washington. Counsel has a pretrial  
7 conference in the case before Judge Shea in Richland on April 21, 2020. Counsel is  
8 due to appear in Grant County district court on March 19 in Moses Lake, and on  
9 March 26 in Ephrata. On March 13, counsel is due to appear of state district court  
10 in Yakima on two cases. Counsel also has oral argument before the Ninth Circuit  
11 on March 2, 2020 in Portland.

12 In addition, counsel has a prescheduled family vacation (out of country) from  
13 April 2, 2020, and will not return to the office until April 13, 2020. In addition,  
14 counsel has oral argument set before the Ninth Circuit on May 4, 2020, in Seattle,  
15 and on May 7, 2020 in Portland, WA. Thus, counsel is available the week of May  
16 18, 2020 should this case fail to resolve.

17 In order to have sufficient time to prepare an effective defense, counsel seeks  
18 a continuance of the trial in this case to the week of May 18, 2020 if available. This  
19 counsel is also available the week of June 1 and the week of June 8, 2020.

20 Mr. Clary has executed a speedy trial waiver through May 31, 2020. If the  
21 trial will be set after that date, counsel will acquired another speedy trial waiver.

22 Therefore it is requested that the Court grant a continuance of the pretrial  
23 conference and the trial, and set a new pretrial motion deadline. It is requested that  
24

1 the Court expedite the hearing on this motion without oral argument.

2 Dated this 23rd day of February, 2020.

3 Respectfully Submitted,

4 s/ Stephen R. Hormel

5 WSBA # 18733

6 Hormel Law Office, L.L.C.

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9  
10 **CERTIFICATE OF SERVICE**

11 I hereby certify that on February 23, 2020, I electronically filed the foregoing  
12 with the Clerk of the Court using the CM/ECF System which will send notification  
13 of such filing to the following: Caitlin Baunsgard, Assistant United States Attorney.

14  
15 s/ Stephen R. Hormel

16 WSBA # 18733

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